

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Chaim Lowenstein,

Plaintiff,

CIVIL NO.: 10-CV-02857-SRN-AJB

v.

Tom Kane, Jr. and  
Dietz-Kane & Associates Insurance  
Agency, Inc.,

**AFFIDAVIT OF TOM KANE, JR.**

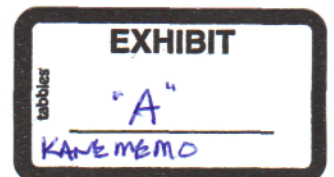
Defendants.

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STATE OF MINNESOTA       )  
                                          ) ss.  
COUNTY OF WASHINGTON ).

Tom Kane, Jr. being first duly sworn, states as follows:

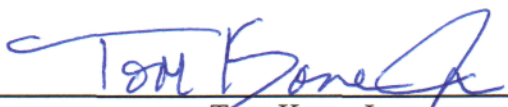
1. That I am the Tom Kane, Jr. named as a Defendant in this action and the owner of the other Defendant, Dietz-Kane & Associates Insurance Agency, Inc. ("Dietz-Kane").
2. This Affidavit is based upon my personal knowledge.
3. I am one the founding owners of ArmorCore Technologies, LLC ("ArmorCore"). The business purpose of ArmorCore was to develop and sell data storage and date recovery equipment, software and related services. I did not know that Plaintiff was involved in a coffee business (if he actually is) until long after ArmorCore was formed and commenced operation. Neither I nor ArmorCore is connected in any way to Plaintiff's alleged coffee business.
4. From the time ArmorCore was formed and until July or August of 2008 (when I became the administrator of ArmorCore's account at GoDaddy), Plaintiff handled all of



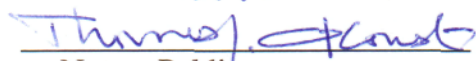
ArmorCore's web-hosting matters including contracting and administrating ArmorCore's account at GoDaddy.

5. Plaintiff threatened me, both verbally and in writing, with a trademark and copyright suit if I did not return to him his ability to use his alleged domain names that resided within ArmorCore's web-hosting account/agreement with GoDaddy. Initially I thought I might cooperate with Plaintiff, just to avoid this law suit. But, when I was threatened with arrest and had to defend myself from the United States Postal Investigation Service's suspicion that I was Plaintiff's accomplice in his fraudulent rebate activities, I ceased to negotiate with Plaintiff regarding his access to ArmorCore's account at GoDaddy. Neither I nor the investigator wanted Plaintiff to have access to ArmorCore's account at GoDaddy for fear that he would continue his criminal activities and/or alter or destroy evidence of his criminal activities before the investigation was completed. At the investigator's request, and to show my good faith effort to cooperate with her to help exonerate me from suspicion of being complicit in Plaintiff's fraudulent rebate scam, I did not allow Plaintiff to become administrator of ArmorCore's web accounts at GoDaddy.
6. Neither I nor anyone associated with me or Dietz-Kane has ever attempted to advertise for sale or sold any coffee or related products at any time, and certainly not by using Plaintiff's alleged marks.
7. Neither I nor anyone associated with me or Dietz-Kane has ever altered, advertised on, solicited on, or taken orders from any web-site allegedly copyrighted or owned by Plaintiff.
8. Neither I nor anyone associated with me or Dietz-Kane has ever copied any of Plaintiff's alleged copyrighted works.

9. FURTHER YOUR AFFIANT SAYETH NAUGHT.

  
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Tom Kane, Jr.

Subscribed and sworn to before me this  
29<sup>th</sup> day of ~~October~~ <sup>Sept.</sup>, 2010

  
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Notary Public

